

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #9	CCRB Case #: 201906966	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 07/08/2019 3:15 PM, Monday, 07/08/2019 6:00 PM, Monday, 08/12/2019	Location of Incident: [REDACTED]	Precinct: 06	18 Mo. SOL 1/8/2021	EO SOL 8/25/2021	
Date/Time CV Reported Wed, 08/07/2019 11:58 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/07/2019 11:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Brian Schumacher	04630	929151	026 DET
2. LCD Kevin Paynter	00000	919543	026 DET
3. DT3 Robert Divers	22335	957551	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Vincent Signoretti	02464	927519	026 DET
2. DT3 Kevin Harding	1519	950559	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Robert Divers	Discourtesy: On July 8, 2019, inside of 100 Centre Street in Manhattan, Detective Robert Divers spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.DT3 Robert Divers	Force: On July 8, 2019, inside of 100 Centre Street in Manhattan, Detective Robert Divers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.LCD Kevin Paynter	Discourtesy: On July 8, 2019, at the 26th Precinct stationhouse, Lieutenant Kevin Paynter spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.LCD Kevin Paynter	Abuse: On July 8, 2019, at the 26th Precinct stationhouse, Lieutenant Kevin Paynter refused to provide his name to § 87(2)(b) [REDACTED]	[REDACTED]
E.LCD Kevin Paynter	Abuse: On July 8, 2019, at the 26th Precinct stationhouse, Lieutenant Kevin Paynter refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
F.DT3 Brian Schumacher	Discourtesy: On August 12, 2019, over the phone, Detective Brian Schumacher spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

## Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on August 7, 2019.

On July 8, 2019, at approximately 3:15 PM, Det. Robert Divers and Det. Kevin Harding of Manhattan Warrants Squad arrested § 87(2)(b) at 100 Centre Street in Manhattan. When § 87(2)(b) asked why he was under arrest, Det. Divers allegedly said, “Shut the fuck up,” and, “I’m not answering none of your fucking questions” (**Allegation A: Discourtesy**, § 87(2)(g)). Det. Divers then allegedly pushed § 87(2)(b)’s face against an elevator wall and door (**Allegation B: Force**, § 87(2)(g)).

Det. Divers and Det. Harding transported § 87(2)(b) to the 26<sup>th</sup> Precinct Detective Squad in Manhattan. There, Lt. Kevin Paynter of the 26<sup>th</sup> Precinct Detective Squad allegedly referred to § 87(2)(b) as a “smartass,” and said to § 87(2)(b) “I don’t give a fuck,” “Shut the fuck up,” and, “You sound dumb as hell” (**Allegation C: Discourtesy**, § 87(2)(g)). Lt. Paynter also allegedly refused to provide his name and shield number to § 87(2)(b) (**Allegations D and E: Abuse of Authority**, § 87(2)(g)), saying, “I’m not giving you shit” (also **Allegation C: Discourtesy**, § 87(2)(g)). § 87(2)(b) was then transported to Manhattan Central Booking.

Later, on August 12, 2019, at an unknown time, § 87(2)(b) spoke via telephone with Det. Brian Schumacher of the 26<sup>th</sup> Precinct Detective Squad, who had conducted the investigation leading to § 87(2)(b)’s arrest. Det. Schumacher allegedly said to § 87(2)(b) “I don’t have to tell you shit,” and, “I’m not telling you a motherfucking thing” (**Allegation F: Discourtesy**, § 87(2)(g)).

Neither Det. Divers nor Det. Harding were assigned BWCs at the time of this incident, and there are no cameras located in the relevant areas of 100 Centre Street. As such, there is no video evidence associated with this case.

This case was reassigned from Inv. Greg Finch to Inv. Samuel Ross on March 22, 2021.

## Findings and Recommendations

### **Allegation (A) Discourtesy: On July 8, 2019, inside of 100 Centre Street in Manhattan, Detective Robert Divers spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that Det. Divers and Det. Harding brought him from the hallway where they apprehended him to an elevator. § 87(2)(b)’s girlfriend, § 87(2)(b) followed them into the elevator. Inside of the elevator, § 87(2)(b) asked Det. Divers, “Why am I being incarcerated right now?” Det. Divers responded, “Shut the fuck up,” and then said, “I’m not answering none of your fucking questions.”

The investigation made efforts to contact § 87(2)(b) but was ultimately unable to reach her for a statement regarding this incident.

Det. Divers denied ever saying to § 87(2)(b) “Shut the fuck up,” or, “I’m not answering any of your fucking questions.” Det. Harding also stated that Det. Divers never used profanity toward § 87(2)(b). Neither Det. Divers nor Det. Harding was assigned a body-worn camera as of the date of this interaction.

On November 4, 2019, Major Gerard Duffy of Court Security Services informed Inv. Finch via telephone that there are no cameras inside the elevators in 100 Centre Street, or at the 11<sup>th</sup> floor elevator banks or hallways, where the officers apprehended § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

**Allegation (B) Force: On July 8, 2019, inside of 100 Centre Street in Manhattan, Detective Robert Divers used physical force against § 87(2)(b)**

According to § 87(2)(b) inside of the elevator, Det. Divers told him to “stop spitting.” § 87(2)(b) denied spitting at any officer, but he did not recall if any saliva accidentally exited his mouth as he spoke. He was animated in his interactions with Det. Divers and Det. Harding, and spoke loudly. Det. Divers used his forearm to push § 87(2)(b)'s face into a corner of the elevator. Each time § 87(2)(b) turned his head to speak, Det. Divers again pushed § 87(2)(b)'s face into the corner. § 87(2)(b) did not sustain any injury as a result. Ten to fifteen seconds later, when the elevator reached an unknown floor, Det. Divers released § 87(2)(b)'s head from the elevator wall.

Det. Divers did not recall § 87(2)(b) ever spitting and denied pushing § 87(2)(b) against an elevator wall. Det. Divers did not recall any need to overcome § 87(2)(b) with any degree or manner of physical force. Det. Harding also did not recall § 87(2)(b) spitting or Det. Divers using any physical force against § 87(2)(b)

As noted above, the investigation was unable to obtain a statement from § 87(2)(b). Further, no BWC video or surveillance video captured the interactions in question.

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Discourtesy: On July 8, 2019, at the 26th Precinct stationhouse, Lieutenant Kevin Paynter spoke discourteously to § 87(2)(b)**

**Allegation (D) Abuse of Authority: On July 8, 2019, at the 26th Precinct stationhouse,**

**Lieutenant Kevin Paynter refused to provide his name to § 87(2)(b)**

**Allegation (E) Abuse of Authority: On July 8, 2019, at the 26th Precinct stationhouse,**

**Lieutenant Kevin Paynter refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) stated that Det. Divers and Det. Harding transported him to the 26<sup>th</sup> Precinct Detective Squad, located at the 26<sup>th</sup> Precinct stationhouse in Manhattan. There, § 87(2)(b) spoke with Lt. Paynter, who said that § 87(2)(b) had been arrested on an open warrant. When § 87(2)(b) asked whether he had been arrested due to an I-Card or an arrest warrant, Lt. Paynter responded, “Okay, smartass, so since you want to say that, you have an I-Card.” Subsequently, when § 87(2)(b) stated that he thought he had only been detained for questioning, and not arrested, Lt. Paynter said, “I don’t give a fuck.” § 87(2)(b) then argued with Lt. Paynter about the difference between an I-Card and an arrest warrant and denied having been involved in the alleged crime for which he was arrested. Lt. Paynter said to him, “Shut the fuck up,” and, “You sound dumb as hell.”

Later when § 87(2)(b) was in a holding cell, he asked Lt. Paynter for his name. Lt. Paynter responded, “I told you my name when we first met. I’m not giving you shit.” § 87(2)(b) then asked Lt. Paynter to write down his name and shield number, but Lt. Paynter said, “No, I’m not doing that.”

Inv. Finch first attempted to schedule Lt. Paynter for a CCRB interview beginning in March of 2020, but Lt. Paynter’s scheduled interview was cancelled due to a CCRB office closure. Inv. Finch then attempted to schedule Lt. Paynter in August of 2020 and learned that Lt. Paynter had retired from the NYPD. Confirmation of his separation of service was requested on April 26, 2021, and no response has been received as of the writing of this report. However, CTS confirms that Lt. Paynter is no longer listed in the NYPD roster.

§ 87(2)(g)

**Allegation (F) Discourtesy: On August 12, 2019, over the phone, Detective Brian Schumacher spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that at an unknown time on August 12, 2019, he called the 26<sup>th</sup> Precinct Detective Squad and spoke with Det. Schumacher via telephone. When § 87(2)(b) asked Det. Schumacher for the names of the officers who had apprehended him at 100 Centre Street on July 8, 2019, Det. Schumacher replied, “I don’t have to tell you shit.” Det. Schumacher also said to § 87(2)(b) “I know you’re recording. You’re just fishing for evidence. I’m not telling you a motherfucking thing.” Det. Schumacher then disconnected the call. § 87(2)(b) did not record this conversation.

Det. Schumacher acknowledged speaking with § 87(2)(b) via telephone on or about August 12, 2019. Det. Schumacher explained that as the investigator assigned to the case, he had issued an I-Card, and that § 87(2)(b) had been arrested as a result. § 87(2)(b) was unsatisfied and argued that the arrest had been illegal. Det. Schumacher explained that the arrest had been legal and appropriate given the facts of the case. Det. Schumacher also said that he was aware that § 87(2)(b) was likely recording the phone call. By saying so, he hoped to make clear to § 87(2)(b) that he was being truthful. Det. Schumacher did not recall § 87(2)(b)’s response. Det. § 87(2)(b) never said, “I’m not telling you a motherfucking thing,” or, “I don’t have to tell you shit.” He denied ever using any profanity in conversation with § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

**Civilian and Officer CCRB Histories**

- § 87(2)(b)
- Lt. Paynter’s appointment date and tenure as a member of service are unavailable. He has been a subject in eight other CCRB complaints with seventeen allegations.

- Case #200615694 involved a substantiated allegation of discourtesy against Lt. Paynter. The Board recommended charges and the NYPD imposed no disciplinary action.
- Det. Signoretti has been a member of service for 20 years and has been a subject in three other CCRB complaints with four allegations, none of which were substantiated. Det. Signoretti's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Det. Schumacher has been a member of service for 19 years and this is the first CCRB complaint to which he has been a subject.
- Det. Divers has been a member of service for six years and has been a subject in three other CCRB complaints with eight allegations, none of which have been substantiated.
  - Case #201908857 is pending review and includes no recommended substantiations.
  - Case #202003650 is pending investigation.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of January 7, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to this complaint.

- § 87(2)(b) [REDACTED]

Squad No.: 9

Investigator: <u>Samuel Ross</u>	<u>Inv. Samuel Ross</u>	<u>05/20/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Monique West</u>	<u>IM Monique West</u>	<u>5/20/2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date